

REMARKS

This is in response to the Office Action mailed on April 26, 2004, in which claims 1-8 were allowed, claim 16 was rejected under 35 U.S.C. §112 second paragraph, claims 9, 17 and 19 were rejected under 35 U.S.C. §103(a), and claims 10-15, 18, and 20 were objected to as being dependent upon a rejected base claim. With this Amendment, claims 9, 16 and 17 are amended.

Claim Rejection – 35 U.S.C § 112 Second Paragraph

In the Office Action, the Examiner rejected Claim 16 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the invention as well as lacking antecedent basis for the plunger and the extended position. With this amendment, claim 16 has been amended to depend from base claim 14 which provides basis for the plunger and the extended position. Applicant now believes claim 16 to be in allowable form. Reconsideration and allowance to that effect are respectfully requested.

Claim Rejection – 35 U.S.C. §103(a)

In the Office Action, the Examiner rejected claims 9, 17 and 19 under 35 U.S.C §103(a) as being unpatentable over U.S. Patent No. 3,549,028 issued to Neumann, et al. (hereinafter “the ‘028 patent”). The ‘028 patent suggests a screen rake machine for cleaning bar screens in sewage treatment plants. While the Examiner admits that the preferable drive mechanism for the rake of the ‘028 patent is a winch operated by the vehicle motor, the Examiner further takes the position that it would have been obvious to disclose the same drive for the hopper and the rake stating “that power operated means can obviously be used to tilt the hopper, implies that any such means, including the vehicle motor, may obviously be used to operate the bucket.” Applicant respectfully disagrees.

A rejection of obviousness under 35 U.S.C. §103 can only be properly made if three basic criteria are met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references must teach or suggest all the claim limitations. MPEP § 2143. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion or motivation to do so found in the references themselves or in the knowledge generally available to one of ordinary skill in the art. MPEP § 2143.01.

To better define the invention, claim 9 has been amended to clarify that the drive mechanism is operable to selectively position either the rake to remove the debris held by the screen or the temporary storage structure to dump the debris held therein. In the present situation, the only reference cited is the '028 patent, which suggests that the drive mechanism for the rake be a winch preferably driven by the vehicle motor. The '028 patent also suggests that the hopper can be tilted by a power operated means, but is silent as to what that power operated means consists. In fact, the '028 patent suggests only a power operated means to tilt the hopper, not the rake, or alternatively both the rake and the hopper interchangeably. From this, however, the Examiner concludes that the power operated means used to tilt the hopper can also be taken as meaning the vehicle motor.

In any event, there is no teaching that the winch can be interchangeably coupled to either the rake or the hopper. Alternatively, assuming for arguendo the Examiner's position that the power operated means could include the vehicle motor, there is still no teaching or suggestion that the vehicle motor interchangeably couples to either the rake or the hopper of the '028

patent. In other words, while it may be conceivable that the vehicle motor can operate both the rake and the hopper simultaneously, there is no motivation, teaching or suggestion in the '028 patent that would require that the vehicle motor be interchangeably coupled to either the rake or the hopper. As defined by claim 9 of the present application, the drive mechanism is either coupled to the rake OR the temporary storage structure, but not both. Nothing in the '028 patent renders this obvious. Applicant therefore respectfully submits that there is neither a disclosure nor teaching in the '028 patent that the vehicle motor interchangeably couples to either the winch or the hopper, or that it would be desirable to do so.

Furthermore, the '028 patent states that the winch unit would preferably derive power from the vehicle motor, implying that the winch unit is separate from the vehicle motor and could have its own power supply. (Column 3, lines 62-65). Thus, the '028 patent actually teaches away from an interchangeable driving mechanism by stating that the winch is separate and distinct from any powered mechanism that may tilt the hopper. For the above reasons, it is believed that claim 9 is non-obvious over the prior-art and in allowable form. Reconsideration and allowance of claim 9 is respectfully requested.

To better define the invention, claim 17 has also been amended to include the coupling and decoupling aspects of the rake and the bucket. As amended, claim 17 requires that the drive mechanism be coupled exclusively to the bucket or to the rake mechanism, and that in order to couple to the bucket, the drive mechanism must decouple from the rake. Thus, in addition to the aforementioned reasons, the '028 patent neither teaches nor suggests that it is desirable to provide a drive mechanism coupled exclusively to the bucket or to the rake. Because there is no motivation, suggestion or teaching by the '028 patent to provide a method as defined by claim 17 of the present invention, claim 17 is believed to be non-obvious over the prior art and in allowable form. Reconsideration and allowance of claim 17 is respectfully requested.

Also, because claim 19 depends from claim 17, and it is believed that claim 17 is non-obvious and in allowable form, claim 19 is also non-obvious. Reconsideration and allowance of claim 19 is respectfully requested.

Claim Objection

In the Office Action, the Examiner objected to claims 10-15, 18 and 20 as being dependent upon a rejected base claim. Claims 10-15 depend in some fashion from claim 9. Because it is now believed that claim 9 is in allowable form, claims 10-15 are also in allowable form. Claims 18 and 20 depend from claim 17. Because it is now believed that claim 17 is in allowable form, claims 18 and 20 are also in allowable form. Reconsideration and allowance of claims 10-15, 18 and 20 are respectfully requested.

CONCLUSION

For the aforementioned reasons, it is now believed that claims 9-20 are in order for allowance. Reconsideration and notice of allowance for claims 9-20 is respectfully requested.

Respectfully submitted,

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